

The Seal of the United States Supreme Court is located at the bottom of the page. It features a shield with a scale of justice, a sword, and a laurel wreath. The shield is flanked by two figures, and the entire seal is encircled by the words "UNITED STATES SUPREME COURT" and the date "MDCCCLXXXIII".

No. 12-2234 RV

1. On June 9, 2012, Hubbard sold a 1987 Ford motor vehicle (the “Ford”) for \$7,500.
2. On September 25, 2012, Hubbard purchased the Nissan for \$23,000.

3. On October 19, 2012, Hubbard applied for a Missouri title and vehicle registration for the Nissan. Hubbard received a credit amount of \$7,500 from the sale of the Ford, against the purchase price of the Nissan, resulting in a net purchase price of \$15,500 for the Nissan. Hubbard paid \$654.88 in state sales tax and \$232.50 in local sales tax on the \$15,500 net purchase price of the Nissan.

4. On November 5, 2012, Hubbard sold a 2003 Buick motor vehicle (the “Buick”) for \$5,000.

5. On November 9, 2012, based on the sale price of the Buick, Hubbard filed a motor vehicle refund request with the Director for a partial refund of the state and local sales tax he paid on the Nissan.

6. On November 14, 2012, the Director issued a final decision denying the refund claim.

Conclusions of Law

This Commission has jurisdiction over appeals from the Director’s final decisions.¹ Our duty in a tax case is not merely to review the Director’s decision, but to find the facts and determine, by the application of existing law to those facts, the taxpayer’s lawful tax liability for the period or transaction at issue.² Section 144.025.1³ provides:

[W]here any article on which sales or use tax has been paid, credited, or otherwise satisfied or which was exempted or excluded from sales or use tax is taken in trade as a credit or part payment on the purchase price of the article being sold, the tax imposed by sections 144.020 and 144.440 shall be computed only on that portion of the purchase price which exceeds the actual allowance made for the article traded in or exchanged, if there is a bill of sale or other record showing the actual allowance made for the article traded in or exchanged This section shall also apply to motor vehicles, trailers, boats, and outboard motors sold by the owner or

¹Section 621.050.1, RSMo 2000.

² *J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. banc 1990).

³RSMo Supp. 2012.

holder of the properly assigned certificate of ownership if the seller purchases or contracts to purchase a subsequent motor vehicle, trailer, boat, or outboard motor within one hundred eighty days before or after the date of the sale of the **original article**[.]

(Emphasis added).

Hubbard argues that he should be allowed credit for the subsequent sale of the Buick. Tax credits and exemptions from taxation are construed strictly against the taxpayer, and any doubt or ambiguity is resolved against the taxpayer.⁴ The statute applies if the owner purchases or contracts to purchase a subsequent motor vehicle, trailer, boat, or outboard motor within 180 days before or after the date of sale of “the original article.” The reference to “the original article” indicates that there can be only one.⁵ We must apply the law as written,⁶ and we are not authorized to make exceptions.

Hubbard already received a credit for the sale of the Ford. He is not entitled to any additional credit for the subsequent sale of the Buick.

Summary

Hubbard is not entitled to a refund of state sales tax and local tax.

SO ORDERED on August 8, 2013.

\s\ Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner

⁴*Southwestern Bell Telephone Co. v. Director of Revenue*, 182 S.W.3d 226, 238 (Mo. banc 2005); *Hermann v. Director of Revenue*, 47 S.W.3d 362, 365 (Mo. banc 2001).

⁵MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY 70, 875 (11th ed. 2004).

⁶*Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. banc 1985).